

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

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IN RE: NATIONAL PRESCRIPTION OPIATE LITIGATION  
CASE NO: 1:17-md-2804-DAP

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AUDIO TRANSCRIPTION
JANUARY 14, 2020 DISCOVERY CONFERENCE CALL

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Veritext Legal Solutions
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1 SPECIAL MASTER COHEN: Okay. So let me just
2 jump in.

3 The only way this is going to get unstuck is
4 for me to put on written orders. I had hoped that the
5 pharmacies would come back with indication by the day --
6 and I'm quite sure I said this -- regarding the 18 HIPAA
7 fields. And what I need from all of the pharmacy
8 defendants by noon tomorrow is a clear explanation of
9 what they are willing to live with absent an order
10 because right now, as far as I read it, the judge has
11 already ruled what the plaintiffs are going to get, and
12 it's pretty much everything.

13 I think that there's reason to come to a little
14 bit of a compromise on that, especially if it can avoid
15 whatever you want to call it, appellate work, appeals
16 for reconsideration, writs of mandamus, whatever. If
17 you can come to some sort of agreement, something that
18 both sides can live with, I still think that makes
19 sense. But by tomorrow we're going to figure this out.

20 So the pharmacies need to come back with a very
21 clear explanation of what they are -- what HIPAA fields
22 they're going to be insistent on and which ones they're
23 not (so far?) (unintelligible) that they're not. The
24 date of the script, the zip code, and the assignment of
25 the unique patient identifier.

1 explained what happened in the past. I'm looking from
2 this point forward how do we move? And that's not a
3 suggestion. That's an explanation of what happened
4 before. I'm asking for a suggestion as to how to go
5 forward. Okay? I don't think I heard anything
6 different.

7 MR. DELINSKY: Special Master Cohen --

8 MS. SWIFT: The suggestion was that we pro --

9 MR. DELINSKY: Oh, I'm sorry.

10 MS. SWIFT: Go ahead. Go ahead.

11 SPECIAL MASTER COHEN: The question was -- the
12 question was how do you propose we go forward and get
13 through this -- let's say this list of data fields and
14 which ones will and will not be produced?

15 My answer is we're going to get together,
16 you're going to bring me all your lists and all your
17 explanations and all your arguments as to which should
18 and shouldn't be produced, and I'm going to say "yes,"
19 "no," "yes," "no," and I'm going to enter an order, and
20 then you're going to go do it.

21 MR. DELINSKY: David, could I -- I -- I have a
22 proposal in terms of process.

23 SPECIAL MASTER COHEN: Go ahead.

24 MR. DELINSKY: And let's see if this makes any
25 sense. I think it would make sense for -- to set some

1 his request is not asking for every prescription for any
2 sleep aid to anyone if it's not tied on the same day to
3 a muscle relaxant and an opioid or any one of these
4 drugs in isolation absent actually being prescribed on
5 the same day to the same patient with an opioid.

6 SPECIAL MASTER COHEN: Well, I can tell you
7 already without even hearing his response, that same day
8 is probably too restrictive. If I'm -- if I'm into that
9 cocktail, I'm happy to get one of them on Monday, one of
10 them on Tuesday, and one of them on Wednesday. It's the
11 same patient that's more of the issue. But I'll -- I'll
12 let Pete answer.

13 MR. WEINBERGER: You're absolutely --
14 absolutely correct.

15 MS. SWIFT: I think the problem is we're going
16 to need a definition. I mean, what Kelly's outlined --

17 SPECIAL MASTER COHEN: Okay. We'll -- we'll --

18 MS. SWIFT: -- and what you've said --

19 SPECIAL MASTER COHEN: -- we'll come up with
20 one.

21 MS. SWIFT: -- are totally different --

22 SPECIAL MASTER COHEN: I'm -- I'm -- I'm happy
23 to write it when we get together if y'all can't come up
24 with it. Won't be that hard. Okay.

25 So that's the issue on cocktail drugs.